

FOR IMMEDIATE RELEASE
December 10, 2018
Contact: Mike Rotkin, 831-345-8469

STATE FAIR POLITICAL PRACTICES COMMISSION OPENS INVESTIGATION OF
GREENWAY CAMPAIGN FINANCE VIOLATIONS

The California Fair Political Practices Commission (FPPC) has opened an investigation of Greenway Capitola for finance and disclosure violations in connection with the recent Measure L campaign in the City of Capitola.

Potential violations to the State's disclosure laws include: intentionally attempting to avoid contributor disclosure laws by filing as a general purpose campaign committee instead of a measure-related committee; intentionally failing to disclose significant legal and canvasser expenditures as required by State reporting requirements; intentionally mischaracterizing campaign expenditures; and intentionally misleading the voters and the public by not fully disclosing the financial role of Santa Cruz County Greenway in the Capitola Measure L campaign.

The Capitola First-No on L campaign committee filed a complaint with the FPPC October 29, 2018, one week prior to the November 6th election. This complaint and subsequent additions include information obtained from the Capitola City Clerk's office via the California Public Records Act which indicate that office had been in ongoing

communication with Greenway Capitola since early in the campaign questioning the committee's status and campaign disclosure reports.

On November 5, the day before the election, Greenway Capitola amended its campaign committee filing to change its status to a measure-related committee, and submitted delinquent, mandatory 24-hour disclosure forms for campaign contributions of \$1,000+. That same day, a report was also filed identifying Santa Cruz County Greenway as a "major donor" for contributing [at least] \$14,000 toward the Greenway Capitola campaign.

Greenway Capitola and Santa Cruz County Greenway have so far refused to disclose expenditures related to the substantive cost of defending the initiative measure against the City of Capitola's legal challenge, and the cost of canvassers who were paid to collect signatures for the initiative and distribute campaign materials throughout Capitola's neighborhoods. State law requires that these and all other types of campaign expenditures be disclosed once they are incurred.

For additional information:

FPPC Enforcement Division: complaint@fppc.ca.gov, Case #2018-01259

City of Capitola, Linda Fridy, City Clerk: 831-475-7300

Dennis Norton, Treasurer, Capitola First-No on L, 831-818-0335

#

Attachment : FPPC Complaint + Addendum

10/29/18

Non-sworn Complaint to the FPPC, submitted 10/29/18 via the FPPC Electronic Complaint System website by Linda Wilshusen.

Respondents:

Greenway Capitola-The Better Way

Greenway Capitola-Local Voices, Local Choices, Vote Yes for Capitola's Future
FPPC#1404243

Violation Type: Statement of Organization

Explanation of Violation:

Greenway Capitola-The Better Way registered in April, 2018 as a General Purpose City Committee with its description of activity as "educating the citizens of Capitola about measures and candidates on the ballot." This Committee's 7/31/18 semi-annual Form 460 Campaign Statement for the period 1/1/2018 – 6/30/18 included expenditures related to a ballot measure initiative drive, and after surviving a court challenge by the City of Capitola, the initiative was placed on the ballot in August 2018 as Measure L. This Committee never changed its status to a Primarily Formed Committee, even though it is listed as the entity which has paid for campaign literature, advertising, etc., and which continued to file 460's in the subsequent two pre-election reporting periods. The City Clerk warned the Committee by email on September 28, 2018 (attached), of the requirements for a Primarily Formed Committee, including the requirement that General Purpose Committees not spend more than 70% on a single ballot measure. The City Clerk contacted the Committee again on October 26, 2018 (attached), subsequent to the second pre-election 460 filing October 25, 2018, and subsequent to being advised by the FPPC that she is "required by state law to report any apparent filing violations." (The attached emails were obtained via a public records request.) By not changing its Committee status as required by state law, the Committee avoided required 24-hour contribution disclosures; violated state law by listing campaign expenditures as independent expenditures; violated state law by not including accrued and non-monetary expenditures in its reporting; and otherwise tried to mislead the City and the voting public.

Violation Type: Campaign Reporting Inaccurate/Incomplete

Explanation of Violation:

The Greenway Capitola second pre-election Form 460 for the period 9/23/18 – 10/20/18 contains violations for expenditure and contribution reporting. This statement incorrectly lists \$5,381 of "Yes on Measure L" expenditures on Schedule D as "Independent Expenditures". It also lists Independent Expenditures toward candidates and ballot measures in other, not-adjacent cities (Scotts Valley), which is not consistent with the Committee's stated activities. Neither the first nor the second pre-election statements identify legal fees (either paid or accrued, which are

presumably substantive due to the City challenging the legality of the proposed measure); payments to canvassers and other paid (verifiable) campaign laborers; and website development and maintenance. On the contribution side, Santa Cruz County Greenway, a 501(c)(4) organization engaged in identical activities countywide as the Committee is engaged in within the City of Capitola, is listed in the semi-annual and first 2018 pre-election statements as contributing \$9,500 toward the Committee, but it is not identified as providing non-monetary contributions, which could be substantial: this organization has paid staff who have been visibly active in the campaign, including authoring a solicited opinion piece for a local newspaper (attached). The volume of campaign signs, mailers, and other materials is seemingly beyond the stated contribution total listed in the 460s. Given the warnings issued by the City Clerk, it's doubtful that these violations of FPPC law were unintentional. The 460s indicate no accrued expenses or non-monetary contributions.

Violation Type: Unidentified Advertising or Mailer

Explanation of Violation:

As of the date of this filing, Greenway Capitola's website <https://greenwaycapitola.org/> does not contain any disclaimer or Committee name or FPPC#. The only identifier on the website is in a link to the Santa Cruz County Greenway website, sponsored by that organization. A notice was filed on 10/29/18 on the FPPC AdWATCH website.

Submitted by Linda Wilshusen,
w@pachell.net 831-462-6241

l-j-

Witness: Dennis Norton, 712 Capitola Ave. Suite C, Capitola CA 95010,
dnortondesigns@msn.com 831-818-0335

Attachments: Two emails from Capitola City Clerk Linda Fridy to Greenway Capitola dated 9/28/18 and 10/26/18. Image of Capitola Soquel Times op-ed author notation.

Re: Requesting status of Case Number 2018-01259

From: Linda Wilshusen (l-j-w@pacbell.net)

To: @fppc.ca.gov

Bcc:

Date: Friday, November 30, 2018, 4:14 PM PST

Nov. 30, 2018

Additional Information regarding Case # 2018-01259

From Linda Wilshusen, original complaint COM-10292018-02569

I am attaching two email threads between the Capitola City Clerk and Capitola/Santa Cruz County Greenway which were forwarded to me via a second public information request.

As you may know, Capitola Greenway amended their FPPC Form 410 (also attached) on Nov. 5, 2018, the day before the general election, to change their committee status from a general purpose committee to a primarily formed committee. They also filed two 497's that same day, and Form 461 for Santa Cruz County Greenway on Nov. 13, 2018, a week after the election; these are available on the [City's election website](#).

Capitola Greenway has not yet, to my knowledge, amended their 460's to account for attorney's fees to defend the initiative ([Case No. 18CV02200 City of Capitola v. Pellerin, Santa Cruz County Superior Court](#)) or for (presumably substantive) canvasser payments, or to correct identify and list expenditures - arguing in the emails (as well as in person with the City Clerk, referenced in the emails) that these expenses were incurred by Santa Cruz County Greenway &/or were incurred after the Oct. 25 filing deadline. You will also notice that the representative of Capitola Greenway (campaign committee) is the same as the current Executive Director of Santa Cruz County Greenway (a 401.c.4 organization).

FYI, here is the current vote status for this initiative measure, from the Santa Cruz County Elections "Votes Count" website:

L-Capitola Greenway initiative: majority

Vote Count Percent

Yes 2,384 51.61%

No - 2,235 48.39%

In the greater scheme of things, this is a very small election in a very small local jurisdiction. It is, though, a (seemingly) clear case of a local 401.c.4 organization intentionally colluding with a campaign committee run by that organization, with the assistance of attorneys, to not comply with FPPC law in order to obscure campaign financing. Also, in this local case, the proponents of this measure are now attempting to leverage their narrow win in this small city in order to influence a major, long-term regional transportation decision by local officials, scheduled for mid-January...the real reason for this deceptive & convoluted initiative measure in the first place.

In any event - thank you very much for your time & responsiveness.

- Linda Wilshusen, Complaint filer & Asst. Treasurer of Capitola First-No on L campaign